IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO.12 OF 2004

EPIC Enzymes, Pharmaceuticals
& Industrial Chemicals Ltd. ..Petitioner.

Vs.

M/s.Feinchemie Schwebda
GmbH & Ors. ..Respondents.

Mr.K.J.Abhyankar with Mr.Jaydeep Mitra i/b.Desai & Chinoy, Advocate for the Petitioner.

None for the Respondents.

CORAM: S.U.KAMDAR, J.
DATED: 15TH DECEMBER, 2004

P.C. :

By the present Appeal, an order passed by the trial Court dated 18.10.2004 has been challenged. Though the trial Court has rejected the Application on the grounds that there is no proper service and, once the arbitration proceedings are filed under section 17, it is the arbitrator who has to grant interim orders and not this Court.

2. On merits, I have considered the application of the learned counsel for the Appellant. Page 67 of the paper-book contains the relief in two folds viz. i) that an injunction restraining the Respondent

from violating the terms of the agreement dated 26.11.2001 and for an injunction restraining the Respondents from placing any orders with the third party. A further mandatory injunction is sought by way of direction that the Respondent should continue to accept the supply from the Petitioner hereinabove.

3. I have perused the agreement dated 26.11.2001. The agreement is for the supply of moveable property. The relief sought in the arbitration petition before trial Court under section 9 of the Arbitration & Conciliation Act, 1996 and present Appeal is, in fact, for the specific performance of the agreement to supply moveable properties. It is settled that in case of a breach of an agreement to supply moveable goods remedy is only by way of damages and not for specific performance except in case of exceptions set out in Specific Relief Act. Once the appellant cannot get such relief even at a final stage, the question of granting the same at interim stage does not arise.

4. In the light of the aforesaid circumstances, no relief can be granted in the present Appeal. The Arbitration Appeal is therefore dismissed. There

shall be no order as to costs.